

**South Carolina General Assembly**  
121st Session, 2015-2016

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**Bill 1016**

~~Indicates Matter Stricken~~

Indicates New Matter

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(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

RECALLED

April 27, 2016

**S. 1016**

Introduced by Senators Cleary, Jackson, J. Matthews, Campbell, Davis, Scott, Turner, Rankin, Alexander and McElveen

S. Printed 4/27/16--H.

Read the first time April 27, 2016.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would increase general fund expenditures by \$185,440 in FY 2016-17 and \$166,162 in FY 2017-18. This bill would have no expenditure impact on federal funds or other funds.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill amends Title 44 by adding Chapter 45 known as the Eye Care Consumer Protection Law. The bill requires the Department of Health and Environmental Control to regulate the dispensing of prescription eyewear. The bill defines the term kiosk and specifies requirements for the proper use of automated visual diagnostic equipment. The bill requires the Department of Health and Environmental Control to enforce this chapter through complaint investigations and hearing procedures. The bill specifies fines and other penalties for violations and provides that the violator's licensing board shall retain all assessed fines and determine disciplinary actions.

**Department of Health and Environmental Control.** The department estimates that this new regulatory program would require one investigator, one administrative assistant, and one licensed practical nurse. First year costs are estimated at \$185,440 (including \$145,529 for salaries and fringes, \$20,633 for operating costs, and \$19,278 for the one-time purchase of office equipment and investigative training). Subsequently, annual operating expenditures are estimated at \$166,162.

**Department of Labor, Licensing and Regulation.** The department reports that this bill would have no expenditure impact on the general fund, federal funds, or other funds. Minimal expenditures are anticipated but

these would be absorbed using available resources.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

## **A BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 45 TO TITLE 44 TO ENACT THE "EYE CARE CONSUMER PROTECTION LAW" SO AS TO ESTABLISH REQUIREMENTS FOR A PERSON WHO SELLS SPECTACLES OR CONTACT LENSES USING REFRACTIVE DATA OR INFORMATION GENERATED BY AN AUTOMATED TESTING DEVICE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 40 of the 1976 Code is amended by adding:

### **"CHAPTER 24**

#### **Eye Care Consumer Protection**

Section 40-24-10. For purposes of this chapter:

- (1) 'Contact lenses' means a lens placed directly on the surface of the eye, regardless of whether it is intended to correct a visual defect, and includes, but is not limited to, cosmetic, therapeutic, and corrective lenses.
- (2) 'Dispense' means the act of providing a pair of spectacles or contact lenses to a patient.
- (3) 'Eye examination' means an assessment of all or a portion of the ocular health profile, which must include a complete written or electronic medical history, as well as an assessment of the visual status of a patient.
- (4) 'Kiosk' means automated equipment or an automated application, which is designed to be used on a phone, computer, or internet-based device that can be used in person or remotely to provide refractive data or information.
- (5) 'Patient' means a person who submits to an eye examination in this State.
- (6) 'Prescription' means a provider's handwritten or electronic order to correct refractive error that is based on an eye examination.
- (7) 'Provider' means an individual licensed by the South Carolina Board of Examiners in Optometry or the South Carolina Board of Medical Examiners.
- (8) 'Spectacles' means an optical instrument or device worn or used by an individual that has one or more lenses designed to correct or remediate vision deficits or needs of the individual wearer and are commonly known as glasses, including spectacles that may be adjusted by the wearer to achieve different types or levels of visual correction or enhancement, and excluding over-the-counter spectacles not intended to correct or enhance vision or sold without consideration of the visual status of the individual using the spectacles.
- (9) 'Visual status' means the assessment of the visual acuity, accommodation amplitudes at the discretion of the provider, and ocular alignment of the eyes in an uncorrected state and the best corrected visual acuity achievable with the aid of a spectacle or contact lens prescription; however, the assessment must not be based solely on objective refractive data or information generated by an automated testing device, including an auto refractor or other electronic refractive-only testing device, to provide a medical diagnosis or to establish a refractive error for a patient as part of an eye examination.

Section 40-24-20. (A) A person in this State may not dispense spectacles or contact lenses to a patient without a valid prescription from a provider.

(B) To be valid, a prescription must contain an expiration date on spectacles or contact lenses of one year from the date of examination by the provider or a statement of the reasons why a shorter time is appropriate based on the medical needs of the patient. The prescription must take into consideration medical findings made and refractive error discovered during the eye examination. If a provider determines a patient is a suitable candidate for a prescription for contact lenses or spectacles, a provider may not thereafter refuse to issue a prescription for spectacles or contact lenses to a patient.

(C) A prescription for spectacles or contact lenses may not be based solely on the refractive eye error of the human eye or be generated by a kiosk.

(D) Violation of this section constitutes misconduct as provided for in Sections 40-37-110 and 40-47-110. A provider who violates this section is subject to the penalties authorized in Chapter 37, Title 40 or Chapter 47, Title 40, as applicable."

SECTION 2. This act takes effect upon approval by the Governor.

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